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Paul M. Treseler
Chairman

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DECISION

IN THE MATTER OF

JOSEPH IRIZARRY
W70035

TYPE OF HEARING: Initial Hearing

DATE OF HEARING: March 1, 2016

DATE OF DECISION: August 8, 2016

PARTICIPATING BOARD MEMBERS: Paul M. Treseler, Dr. Charlene Bonner, Tonomey Coleman, Sheila Dupre, Ina Howard-Hogan, Tina Hurley, Lucy Soto-Abbe

DECISION OF THE BOARD: After careful consideration of all relevant facts, including the nature of the underlying offense, the age of the inmate at the time of offense, criminal record, institutional record, the inmate's testimony at the hearing, and the views of the public as expressed at the hearing or in written submissions to the Board, we conclude that the inmate is not a suitable candidate for parole. Parole is denied with a review scheduled in four years from the date of the hearing¹.

I. STATEMENT OF THE CASE

On October 12, 2001, in Essex County Superior Court, a jury convicted Joseph Irizarry of the second degree murder of Angel Rodriguez. Subsequently, Mr. Irizarry was sentenced to life in prison with the possibility of parole for the murder of Mr. Rodriguez.

On the evening of April 16, 2000, seven members of a particular gang (including Angel Rodriguez) were gathered inside of a pizza shop in Lawrence. One of the gang members (not Mr. Rodriguez) was carrying a loaded pistol. As one of the gentlemen placed an order in the pizza shop, the other men (including Mr. Rodriguez) went outside. While the men were standing outside, a man dressed in black was observed walking with a woman toward the pizza shop. The man was identified as Joseph Irizarry, a member of another gang. The woman was his girlfriend. Mr. Irizarry's girlfriend then entered a rooming house where she resided, while

¹ Six of the Seven Members of the Board voted to schedule a review hearing on Mr. Irizarry's petition for parole in four years. One Board Member voted to review Mr. Irizarry's petition in three years.

Mr. Irizarry continued walking toward the men at the pizza shop. Mr. Irizarry reached under his shirt to retrieve a gun and proceeded to fire toward the group. Mr. Rodriguez was fatally shot twice in the abdomen. After he finished shooting, Mr. Irizarry ran from the scene.

On April 22, 2000, following a multi-day search, police located Mr. Irizarry near the Leominster/Fitchburg line. Mr. Irizarry, however, fled from police and was able to evade capture. He was subsequently arrested on April 24, 2000 in Fitchburg. On May 17, 2000, the Essex County Grand Jury indicted Mr. Irizarry for the murder of Mr. Rodriguez.

II. PAROLE HEARING ON MARCH 1, 2016

Mr. Irizarry, now 36-years-old, appeared before the Parole Board on March 1, 2016, for an initial hearing and was represented by Attorney Patricia Garin and Attorney Rebecca Schapiro. In Mr. Irizarry's opening statement to the Board, he apologized for the murder of Mr. Rodriguez and expressed his remorse.

During the course of the hearing, Mr. Irizarry described the events that led to the murder of Mr. Rodriguez. Mr. Irizarry had been selling marijuana and found out that another man, Johnny, was also selling marijuana in his neighborhood. Mr. Irizarry wanted to speak with Johnny since it was his (Mr. Irizarry's) area. Prior to speaking with Johnny, Mr. Irizarry's girlfriend told him that Johnny had "disrespected" her, and that he was trying to instigate trouble between Mr. Irizarry's gang and another gang. When Johnny showed up in Mr. Irizarry's neighborhood, Mr. Irizarry hit Johnny multiple times, then let him go and told him not to come back to that neighborhood. Mr. Irizarry believed that the issue had been resolved. However, after the altercation, Mr. Irizarry heard that Johnny was looking for him. Mr. Irizarry ran into Johnny and confronted him. During that discussion, the two men were able to resolve their conflict. Mr. Irizarry then told his fellow gang members that he and Johnny no longer had a problem with one another.

The following day, Mr. Irizarry learned that two other members of his gang had been beaten up by members of Johnny's gang. Johnny's gang said that they were going after each member of Mr. Irizarry's gang. As Mr. Irizarry was heading home that evening, he saw members of the rival gang standing outside of the pizza shop and decided to confront them. He had previously had an altercation with these men, and knew that at least one of them had a gun. When asked why he did not walk away from the situation at that point, Mr. Irizarry responded by saying that he believed he needed to maintain his reputation. He said that his "ego got inflated" in the brief time that he lived in Lawrence, and he wanted to preserve his reputation as a fighter. Looking back, Mr. Irizarry realizes that it was "ridiculous." At the time, Mr. Irizarry believed that the men were a threat, so he approached them with his hand on his gun. He saw a man (that he knew carried a gun) standing with his hand on his waist. The men started to move as Mr. Irizarry neared and, "impulsively," he pulled out his gun and fired two shots toward the group. He intended to shoot towards the man that he knew carried a gun, but Mr. Rodriguez had walked into the line of fire. Mr. Irizarry admitted that he had not seen anyone pull a gun when he drew his weapon and fired. Mr. Irizarry had never met Mr. Rodriguez, and expressed his guilt for killing a complete stranger who had a wife and children. After shooting Mr. Rodriguez, Mr. Irizarry ran to a housing project and gave the gun to a fellow gang member.

After reflecting on decisions that he had made due to gang involvement, Mr. Irizarry realized it might be time to distance himself from gang life. When asked what prompted him to disassociate himself from the gang that had essentially been a surrogate family, Mr. Irizarry said it was a "combination of many things that actually transpired." Specifically, in 2008, Mr. Irizarry's mother became ill. This had a significant impact on Mr. Irizarry, as he realized if he remained involved in gang life, it would continue to negatively impact his family. At the same time, however, Mr. Irizarry wanted to maintain his tough reputation. Mr. Irizarry said that his reputation was very important to him, after having been abused in the foster system. He stated that on the streets, he had to put up a "shield of armor" and put his "reputation out there for everybody to respect."

Prior to 2009, Mr. Irizarry had a very poor disciplinary record, which included inciting riots and abusing correctional officers. Mr. Irizarry claimed that he made the decision to part ways with the gang in late 2008/early 2009, and began focusing on improving himself. Mr. Irizarry describes his positive change as a "paradigm shift." He decided to change his "values in life" and no longer wanted his past actions to represent him. Since that time, Mr. Irizarry has taken programs, including Seeking Strength and Seven Habits of Highly Effective People. He took college courses, participated in vocational technical programs, and worked as a tutor in a computer programming class.

The Board considered testimony from two of Mr. Irizarry's sisters and his son's grandmother, all of whom expressed support for his parole. The Board also considered testimony from Essex County Assistant District Attorney Catherine Semel, who expressed opposition to Mr. Irizarry being granted parole.

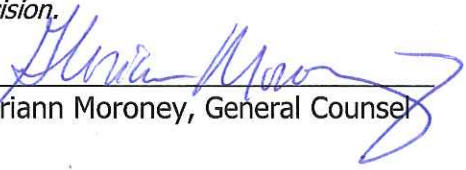
III. DECISION

Although some progress has been made, the Board is of the opinion that Mr. Irizarry has not demonstrated a level of rehabilitative progress that would make his release compatible with the welfare of society. The Board believes that a longer period of positive institutional adjustment and programming would be beneficial to Mr. Irizarry's rehabilitation.

The applicable standard used by the Board to assess a candidate for parole is: "Parole Board Members shall only grant a parole permit if they are of the opinion that there is a reasonable probability that, if such offender is released, the offender will live and remain at liberty without violating the law and that release is not incompatible with the welfare of society." 120 C.M.R. 300.04. In forming this opinion, the Board has taken into consideration Mr. Irizarry's institutional behavior, as well as his participation in available work, educational, and treatment programs during the period of his incarceration. The Board has also considered a risk and needs assessment and whether risk reduction programs could effectively minimize Mr. Irizarry's risk of recidivism. After applying this standard to the circumstances of Mr. Irizarry's case, the Board is of the opinion that Mr. Irizarry is not yet rehabilitated and, therefore, does not merit parole at this time.

Mr. Irizarry's next appearance before the Board will take place in four years from the date of this hearing. During the interim, the Board encourages Mr. Irizarry to continue working towards his full rehabilitation.

I certify that this is the decision and reasons of the Massachusetts Parole Board regarding the above referenced hearing. Pursuant to G.L. c. 127, § 130, I further certify that all voting Board Members have reviewed the applicant's entire criminal record. This signature does not indicate authorship of the decision.


Gloriann Moroney, General Counsel

8/8/16
Date